

1
2
3
4
5
6 UNITED STATES BANKRUPTCY COURT
7 EASTERN DISTRICT OF CALIFORNIA
8

9 In re) Case No. 05-31885-C-7
10 PAUL RECKERS,) DC No. SDH-1
11 Debtor.)
12

13 **FINDINGS OF FACT AND CONCLUSIONS OF LAW**
14 **ON MOTION TO AVOID LIEN**

15 These findings of fact and conclusions of law are rendered
16 in this contested matter pursuant to Federal Rule of Civil
17 Procedure 52 as incorporated by Federal Rules of Bankruptcy
18 Procedure 7052 and 9014.
19

20 Jurisdiction

21 Jurisdiction is founded upon 28 U.S.C. § 1334. This is a
22 core proceeding. 28 U.S.C. § 157(b)(2)(K).
23

24 Findings of Fact

25 On October 7, 2005, the debtor filed a motion requesting
26 that this court avoid a judgment lien in favor of Rash Curtis &
27 Associates ("the creditor") because the lien impairs the debtor's
28 homestead exemption. The lien attaches to the debtor's residence
at 131 Maxwell Road, Maxwell, California ("the property"). The

16

1 debtor properly served notice and the creditor did not file an
2 opposition. A hearing was scheduled for November 22, 2005, to
3 consider the motion. Upon review of the record, the court
4 decided to submit the matter on the record presented and removed
5 the matter from calendar.

6 Debtor owns a fifty percent undivided interest in the
7 property and scheduled the property at a value of \$40,000.


8 The debtor's motion claims that the lien in favor of Rash
9 Curtis & Associates impairs debtor's homestead exemption. Debtor
10 filed schedules that claimed the property as exempt for \$50,000.
11

12 Conclusions of Law

13 A debtor may avoid the fixing of a lien on an interest of
14 the debtor in property to the extent that the lien impairs an
15 exemption that is properly claimed and to which there is no
16 objection. 11 U.S.C. § 522(f)(1). Here, the record reflects
17 that the lien in favor of Rash Curtis & Associates impairs an
18 exemption to which the debtor is entitled. As such, the debtor
19 may avoid the lien in favor of Rash Curtis & Associates.

20 Accordingly, the motion will be granted. An appropriate
21 order will issue.

22 Dated: November 23, 2005

23
24 
25 UNITED STATES BANKRUPTCY JUDGE
26
27
28

CERTIFICATE OF SERVICE

On the date indicated below, I served a true and correct copy(ies) of the attached document by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed and by depositing said envelope in the United States mail or by placing said copy(ies) into an interoffice delivery receptacle located in the Clerk's Office.

Paul E. Reckers
PO Box 71
Maxwell, CA 95955

Scott D. Hughes
1100 Melody Ln #207
Roseville, CA 95678

Butte County Credit Bureau
P.O. Box 7600
Chico, CA 95927

Alfred W. Driscoll III
Attorney at Law
1339 The Esplanade
Chico, CA 95926

Kenneth Sanders
Chapter 7 Trustee
P.O. Box 214205
Sacramento, CA 95821

Office of the United States Trustee
United States Courthouse
501 "I" Street, Suite 7-500
Sacramento, CA 95814

Dated: 11-28-05


Deputy Clerk